

Consultation on public benefit and registration guidance



Online or in print

If you are viewing this guidance online, you will be able to navigate your way around by clicking on links on the Contents page or within the text to other websites and guidance.

If you choose to read this document in printed format, you can still use the colour coding to assist you in identifying the location of additional information.

Text in **bold magenta** will link you to websites and text in **bold purple** will link you to other guidance. We have also produced a glossary which provides further information, definitions and descriptions of some key terms. The words in **bold green** type indicate words that are found in the glossary at the back of this document. If you are reading the guidance online you can click on the green words which link to the glossary.

Our vision

The Commission's vision is to deliver, in partnership with other key stakeholders in the charitable sector:

'A dynamic and well governed charities sector in which the public has confidence, underpinned by the Commission's effective delivery of its regulatory and advisory role.'

Our values

The Commission aspires to be respected and valued in the execution of its functions and will ensure that in the performance of our role as the charity regulator for Northern Ireland we will be:

Independent: we will maintain independence in our decision making, acting without fear or favour, in the public interest.

Accountable: we will be proactive in accounting to all our stakeholders, which will include involving others on a continuous and appropriate basis and taking responsibility for our decisions.

Proportionate: our actions, procedures and culture will be proportionate to the burden of regulation on charities of different sizes, to the degree of risk involved and to the potential impact within the resources available to us.

Impartial: we will exercise our powers and discretion in a way which is non-partisan and even-handed.

Transparent: we will communicate with and listen to our stakeholders and will be clear about our actions, intentions and expectations.

Consistent: we will act consistently in our decision making.

Our approach to consultation

During our consultation process and engagement with stakeholders, we will adhere at all times to the principles of:

- commitment
- honesty and integrity
- openness
- adherence to the best approach
- early involvement
- information sharing
- accessibility
- separation of functions
- evaluation
- clear communication.

These principles are set out in the Commission's draft 'Participation strategy'. We will be consulting on this strategy once our stakeholders have had the opportunity to engage with us in the current consultation on our public benefit and registration guidance. We hope to learn lessons from our initial consultation exercises.

Equality and accessibility

The Charity Commission for Northern Ireland is totally committed to equality and diversity in all that we do.

We intend to make all of our guidance available to all stakeholders. We will aim to meet all accessibility needs and offer other languages and formats for this guidance, for example Braille or audio or meet any other requirements needed in line with the Commission's Equality scheme.

If you have any accessibility requirements please contact us.

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Foreword

The Charity Commission for Northern Ireland thank you for participating in our public consultation on our public benefit and registration guidance. We go into this consultation with a commitment to openness and collaborative working and it is important that we listen to the comments and views of our stakeholders.

We are pleased to be in a position to consult on our guidance, following a period of delay on the registration front, and we are grateful for the patience and support of charities during that time.

Northern Ireland charity regulation is compulsory and it is important therefore that this guidance is clear and accessible.

The Charities Act (Northern Ireland) 2008 states that we must consult on our public benefit guidance. Apart from this, we recognise that consulting with the people who will be using the guidance is the best way of achieving this clarity and accessibility.

The ultimate aim of our work is to promote public trust and confidence in charities. This is our vision and we will continue to work with all other groups and individuals in delivering it.

Mr Tom McGrath, Chief Charity Commissioner

Ms Frances McCandless, Chief Executive



Section 1: Consultation details

1.1 What are we consulting on?

The Commission has a statutory duty set out in the Charities Act (Northern Ireland) 2008 (the Act) to consult on our public benefit guidance.

The Act does not detail how the principles of public benefit should be interpreted, this is the job of the Commission. Therefore, in compliance with the law, we have drafted the following pieces of guidance:

- **Public benefit statutory guidance supporting guidance documents on each of the twelve charitable purposes** and
- **supporting guidance on the 'public' and 'benefit' elements of public benefit.**

The public benefit requirement is a key aspect of charity registration, so we are keen to ensure that the guidance is clear and accessible in preparation for compulsory registration of charities from autumn 2013.

We are also taking the opportunity to consult on our registration guidance; both sets of guidance are intended to be read together.

This consultation is a forum for anyone involved in or interested in the work of charities to help shape the guidance. It provides an opportunity to learn more about how it applies to your organisation. It also gives the Commission a platform from which to raise awareness of the public benefit guidance and registration guidance.

1.2 What is not included in the consultation?

The Commission is not consulting on the Act or any amendments; this is not within our remit and was dealt with by the Northern Ireland Assembly as a legislative matter.

This consultation concerns how we have applied the principles set out in the legislation in drafting our various public benefit and registration guidance documents.

1.3 Why are we consulting again?

The Commission first consulted on public benefit and its application to charitable organisations in autumn 2009. However, during that consultation period a problem was identified with the legislation which meant an amendment was required. This has led to the revision of the public benefit guidance and a delay in the commencement of registration in Northern Ireland.

The Commission is pleased that the legislation has now been amended in line with our preferred solution as suggested when the issue was referred back to the Department for Social Development in June 2010.

1.4 Who would we like to hear from?

We are keen to hear the views of a wide range of stakeholders during this consultation. This includes, but is not limited to:

Charity sector

- charity staff: volunteers and employees
- trustees and management committees
- large, medium and small charitable organisations
- organisations with different structures, for example charitable companies and charitable trusts
- umbrella bodies.

Public sector

- political parties and local representatives
- local government
- funding bodies
- Government departments and arm's length bodies.

General public

- all members of the public
- donors
- beneficiaries
- individuals who responded to the previous consultation.

Other stakeholder groups

- professional bodies and individuals, for example solicitors and accountants.

If you think there are other interested parties who should be consulted, please let us know. You can find our contact details at www.charitycommissionni.org.uk or by [clicking here](#).

You do not need direct experience with charities in order to contribute meaningfully to our consultation; charities touch all of our lives and all views are welcome.

We are keen to engage with people across Northern Ireland and to ensure that the consultation is accessible to anyone who wishes to comment. If there is anything we can do to help you provide feedback, please let us know.

1.5 How can you respond?

There are various ways that you can respond to this consultation and provide your comments on the guidance. You can:

1. Participate in one of the consultation events we have scheduled in spring 2013. The full schedule is available on our website www.charitycommissionni.org.uk
2. Complete the online consultation survey which can be accessed via our website on the consultation page.
3. Complete the consultation response form at the end of this document (Appendix 1), or alternatively it can be downloaded from our website and returned by email to consult@charitycommissionni.org.uk or post.
4. Contact the Commission (by email, post, telephone) with your comments, you can find our contact details at www.charitycommissionni.org.uk or by [clicking here](#).
5. Join in with the conversation on Twitter by using [#publicbenandreg](#)

1.6 What happens after the consultation?

Following the completion of the consultation process we will provide a summary of consultation responses on our website. This will make it clear where and how we have taken into account the responses provided during the consultation process.

The updated guidance will be published in the summer of 2013 in preparation for the launch of compulsory charity registration.

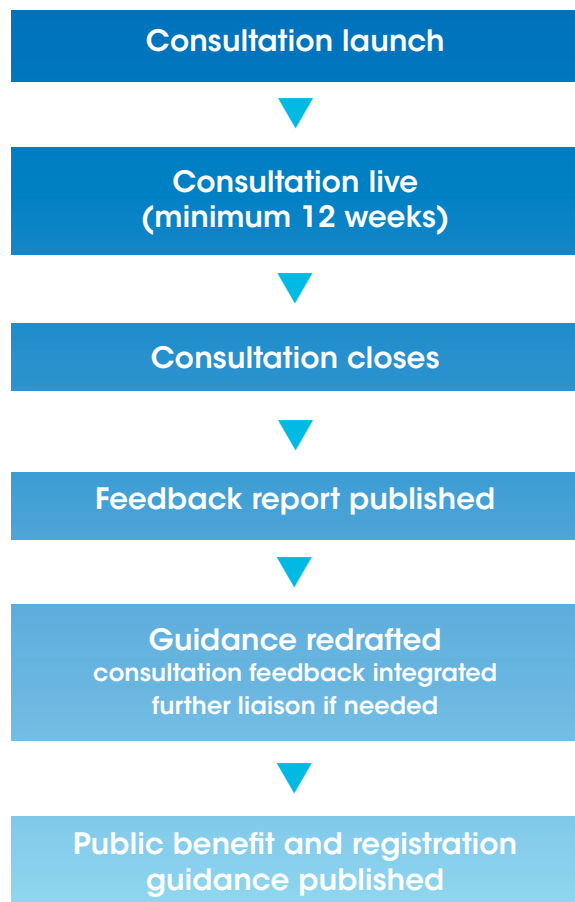
1.7 How will we treat the information provided?

All information contained within the responses may be published or disclosed in accordance with the Freedom of Information Act 2000 and the Data Protection Act 1998. If you do not want the information you give in response to the consultation to be published, please tell us. You may need to provide supporting information as to why this information should be kept confidential, so that we can make an informed decision. There is more information on our data protection and freedom of information obligations at the end of this document.

1.8 How long is the consultation open?

We intend to run the consultation for a minimum of 12 weeks. Consultation information, including the consultation event schedule, is available on our website, on the consultation page. This will be updated regularly during the consultation period.

The consultation process is set out in the chart below.



Section 2: Public benefit and registration guidance

2.1 Public benefit statutory guidance

Charity trustees have a statutory duty to have regard to our **Public benefit statutory guidance**.

The guidance applies to all organisations that:

- have exclusively charitable purposes;
- are for the public benefit;
- operate in Northern Ireland; and
- have control and direction over their resources and governance.

We have produced statutory guidance on the public benefit requirement, as well as a number of supporting guidance documents.

Charity trustees must have regard to our **Public benefit statutory guidance** when exercising any powers or duties to which the guidance is relevant.

2.2 The 'public' and 'benefit' elements: supporting guidance

While charity trustees are not legally obliged to read the supporting guidance, we strongly recommend that they read the guidance relevant to them in order to better understand our statutory guidance.

This supporting guidance explains the 'public' and 'benefit' elements of public benefit.

In the 'benefits' section, it outlines the different types of benefits that a charity may provide, giving relevant examples. It explains that we will only assess benefits which relate specifically to the charity's purposes, and that all benefits must be balanced against any detriment or harm.

The 'public' section sets out the ways in which charity trustees can identify the charity's intended beneficiaries. A charity is only for the public benefit when its purposes are intended to benefit a sufficient section of the public. The guidance explains what we mean by a sufficient section of the public, and when restrictions on who can benefit might be justified.

If you are reading this document online, you can access our guidance by clicking on the following link: **'Public' and 'benefit' elements supporting guidance**.

Alternatively, you can download it from our website or contact us:
www.charitycommissionni.org.uk

2.3 Descriptions of charitable purposes: supporting guidance

Each supporting guidance document contains more detailed and specific information on how to apply the principles of public benefit to each of the charitable purposes.

Although charity trustees are not legally obliged to read the supporting guidance, we recommend strongly that trustees read the supporting guidance documents relevant to their organisation.

If you are reading this document online, you can access our supporting guidance by clicking on the relevant link at **Section 4** of this document.

Alternatively, you can download them from our website or contact us:
www.charitycommissionni.org.uk

2.4 Registration guidance

The **registration guidance** is for anyone involved in the governance of an organisation that must seek registration as a charity in Northern Ireland. All organisations that are or could be charitable must come forward to apply for registration.

Registration with the Commission is different from registration with Her Majesty's Revenue and Customs (HMRC) for charitable tax purposes, so even if you have a HMRC registration number you must still come forward when called to apply for registration with the Commission.

This guidance explains charity registration in Northern Ireland and the process you will need to follow in order to apply.

Section 3: Questions

Below is a summary of the questions in the consultation response form. We would like you to consider these as you are reading the public benefit and registration guidance documents.

Format and structure

- Are you able to find your way around the guidance?
- Overall, is the guidance clear and easy to understand?
- Are there any areas within the guidance you feel could be improved on?

Public benefit statutory guidance

- Is the guidance provided clear and easy to understand?
- Will the guidance enable trustees to apply the public benefit requirement?
- Are there any gaps in the statutory guidance?

The 'public' and 'benefit' elements supporting guidance

- Are there clear explanations of:
 - 'restrictions'
 - 'detriment' and
 - 'sufficient section?'
- Will the guidance support trustees in applying the public benefit requirement to your organisation?
- Are there any gaps in the guidance?

Charitable purposes supporting guidance

- Are the definitions clear?
- Are the examples helpful?
- Are there any gaps in the guidance?
- Does the guidance enable you to assess whether your organisation meets the public benefit requirements?

Registration guidance

- Is the process for applying to register as a charity clear?
- Will the guidance support trustees in applying to register their organisation as a charity?
- Are there any gaps in the guidance?
- Is the policy on how and when organisations will be called forward to register clear?
- Does the guidance explain clearly that you can have your application for registration called forward earlier if the Commission agrees that there are special circumstances for doing so?

FAQs

- What questions would you add to the FAQs?

Future priorities

- When we are developing new guidance in the future, what issues would you like us to prioritise?

Section 4: Useful publications

Public benefit statutory guidance

The 'public' and 'benefit' elements supporting guidance

The prevention or relief of poverty supporting guidance

The advancement of education supporting guidance

The advancement of religion supporting guidance

The advancement of health or the saving of lives supporting guidance

The advancement of citizenship or community development supporting guidance

The advancement of the arts, culture, heritage or science supporting guidance

The advancement of amateur sport supporting guidance

The advancement of human rights, conflict resolution or reconciliation or the promotion of religious or racial harmony or equality and diversity supporting guidance

The advancement of environmental protection or improvement supporting guidance

The relief of those in need supporting guidance

The advancement of animal welfare supporting guidance

Any other purposes supporting guidance

Glossary

Registering as a charity in Northern Ireland guidance

Frequently asked questions (FAQs)

There are Public benefit and registration guidance frequently asked questions on our website.

Appendix: Consultation response form

Guidance for completing the consultation response form

For each question, please identify your choice by inserting an X in the selected box.

Please insert only one X per question.

Please add additional comments as you feel necessary in the spaces provided.

General questions

This section refers to the guidance generally; we will come to the content of the separate pieces of guidance specifically in the next sections. When we refer to the word 'trustee', they may also be called managing trustees, committee members, governors or directors or they may be referred to by some other title.

Q1. How aware were you of the concept of 'public benefit' prior to this consultation?

	Very aware	Moderately aware	Slightly aware	Never heard of it
Awareness of public benefit before				

Q2. What is your awareness of 'public benefit' now?

	Very aware	Moderately aware	Slightly aware	Never heard of it
Awareness of public benefit now				

Q3. Which of the following are you?

Trustee	Charity employee	Charity volunteer	Member of the public	Other (please specify)

Q4. What do you consider to be your primary charitable purpose? (Please select only one option in column A in the table below)

Q5. If you have more than one charitable purpose, rank the purposes in order of their relevance to your organisation, with 1 being the most relevant, 2 next relevant etc. (Please rank your purposes in column B in the table below)

Charitable purpose	Primary purpose A	Ranked purposes B
The prevention or relief of poverty		
Advancement of education		
Advancement of religion		
Advancement of health or saving lives		
Advancement of citizenship or community development		
Advancement of arts, culture, heritage or science		
Advancement of amateur sport		
Advancement of human rights, conflict resolution or reconciliation or the promotion of religious or racial harmony or equality and diversity		
Advancement of environmental protection and improvement		
Relief of those in need		
Advancement of animal welfare		
Any other charitable purposes		

Q6. How would you rate the guidance in terms of its user friendliness?

Guidance	Excellent	Good	Poor	Very poor
Registration				
Public benefit statutory guidance				
Public benefit supporting guidance				
Overall				
Additional comments				

Q7. Are there any areas within the guidance which you feel could be improved upon?

Yes	No
If yes, please provide details of improvements	
If no, have you any additional comments?	

Q8. What are your views regarding?

	Excellent	Good	Poor	Very poor
The structure of the guidance				
The format of the guidance				
Additional comments				

Q9. What questions would you add to the frequently asked questions?

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Public benefit statutory guidance

This section refers to the Public benefit statutory guidance specifically.

Q10. Is the guidance clear and easy to understand?

Yes	No
Please provide details	

Q11. Will the guidance enable trustees to apply the public benefit requirement?

Yes	No
Please provide details	

Q12. Are there any gaps in the statutory guidance?

Yes	No
Please provide details	

The 'public' and 'benefit' elements supporting guidance

This section refers to the supporting guidance on the 'public' and 'benefit' elements specifically.

Q13. Is the guidance clear and easy to understand?

Yes	No
Please provide details	

Q14. How would you rate different sections of the guidance in the following table?

The explanation of:	Very clear	Mostly clear	Substantially unclear	Unclear throughout
'restrictions'				
'detriment'				
'sufficient sections'				
Additional comments				

Q15. Will the guidance support trustees in applying the public benefit requirement?

Yes	No
Please provide details	

Q16. Are there any gaps in this supporting guidance?

Yes	No
Please provide details	

Supporting guidance on each of the charitable purposes

This section refers to the supporting guidance on each of the charitable purposes specifically.

Q17. Are you satisfied with the definitions used?

Yes	No
Please provide details	

Q18. Do you feel that the examples that have been used are helpful?

Yes	No
Please provide details	

Q19. Are there any particular examples that you have concerns about?

Yes	No
Please provide details	

Q20. Are there any gaps in this supporting guidance?

Yes	No
Please provide details	

Q21. Will the guidance support trustees in applying the public benefit requirement?

Yes	No
Please provide details	

Registration guidance

This section refers to the guidance on applying to register as a charity in Northern Ireland.

Q22. Is the guidance clear and easy to understand?

Yes	No
Please provide details	

Q23. Is the process for applying to register as a charity clear?

Yes	No
Please provide details	

Q24. Will the guidance support trustees in applying to register their organisation as a charity?

Yes	No
Please provide details	

Q25. Are there any gaps in the registration guidance?

Yes	No
Please provide details	

Q26. The guidance explains how and when organisations will be called forward to apply for registration. Is this policy and process clear?

	Very clear	Mostly clear	Substantially unclear	Unclear throughout
Process for calling organisations forward for registration				
Additional comments				

Q27. Does the guidance explain clearly that you can have your application for registration called forward earlier if the Commission agrees that there are special circumstances for doing so?

Future priorities

Q.28. When we are developing new guidance in future, what issues would you like us to prioritise?

Frequently asked questions

Q.29. What questions would you add to the FAQs?

Methods of consultation

We are always keen to make our consultation exercises more effective. We would be grateful if you could give us some feedback.

Q30. How would you rate the following?

	Excellent	Good	Poor	Very poor
The range of ways to respond to this consultation				
The format of the consultation				
The consultation document				
Additional comments				

Q31. What do you hope to achieve from this consultation?

Q32. Do you have any ideas for making our consultation processes more effective?

Acknowledgment

Q33. We would like to be able to acknowledge your valuable input. Would you be happy for us to do this?

If yes, you must provide your contact details below.

Yes	No
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Q34. Would you be happy for us to use and attribute quotations from your response, if appropriate?

Yes	No
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Q35. Please provide your contact details below. This is optional.

Title	
Forename	
Surname	
Address	
Postcode	
Email	

Thank you very much for your feedback. It is very important to us that we hear from you and can integrate your ideas into our guidance.

Please do not hesitate to contact us if you have any queries.

Freedom of information and data protection

Data protection

Any information you give us will be held securely and in accordance with the rules on data protection. Your personal details will be treated as private and confidential and safeguarded, and will not be disclosed to anyone not connected to the Charity Commission for Northern Ireland unless you have agreed to their release, or in certain circumstances where:

- we are legally obliged to do so;
- it is necessary for the proper discharge of our statutory functions;
- it is necessary to disclose this information in compliance with our function as regulator of charities where it is in the public interest to do so.

We will ensure that any disclosure made for this purpose is proportionate, considers your right to privacy and is dealt with fairly and lawfully in accordance with the Data Protection Principles of the Data Protection Act.

The Data Protection Act 1998 regulates the use of “personal data”, which is essentially any information, whether kept in computer or paper files, about identifiable individuals. As a “data controller” under the Act, the Charity Commission for Northern Ireland must comply with its requirements.

Freedom of information

The Freedom of Information Act 2000 gives members of the public the right to know about and request information that we hold. This includes information received from third parties.

If information is requested under the Freedom of Information Act we will release it, unless there are relevant exemptions. We may choose to consult with you first if this relates to your consultation or application. If you think that information you are providing may be exempt from release if requested, please let us know.

If you are unhappy with our service

The Charity Commission for Northern Ireland is committed to delivering a quality service at all times. However, we know that sometimes things can go wrong. If you are unhappy about any aspect of our service we would like to hear from you, and have a procedure that you can use. You will find further information on these processes on our website www.charitycommissionni.org.uk

The Charity Commission for Northern Ireland (CCNI) is the new regulator of charities in Northern Ireland, a non-departmental public body sponsored by the Department for Social Development.

Our aims

- the Commission aims to develop a regulatory framework in which the public have confidence and in which charities can grow and flourish, clear in the knowledge of their rights and responsibilities;

And

- manage the establishment of the organisation to a statutory non-departmental public body following the full implementation of the **Charities Act (Northern Ireland) 2008**.

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Follow us on **Twitter @CharityCommNI**

Follow our public benefit and registration consultation on Twitter **#publicbenandreg**

Respond to our consultation on public benefit and registration on
consult@charitycommissionni.org.uk

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